

Introduced by Senator Thompson
(Coauthor: Assembly Member Strom-Martin)

February 13, 1998

An act to add Section 8670.32 to the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1644, as introduced, M. Thompson. Oil spills: nontank vessels.

Under existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, tanker vessels entering the state are requested to submit a vessel contingency plan to the administrator for oil spill response at least 3 days prior to entering state waters, and to comply with specified requirements.

The bill would prohibit the operation of a nontank vessel, as defined, of 300 gross registered tons or greater in the marine waters of the state unless the owner or operator has an oil spill contingency plan prepared, submitted, and approved in accordance with prescribed procedures and requirements.

The bill would require each owner or operator of a nontank vessel to prepare an oil spill contingency plan for that vessel, and submit the plan to the administrator for review and approval, as prescribed.

The bill would require the administrator to adopt regulations and guidelines to implement the requirements of the bill, as prescribed. The bill would require the vessel owner or operator to provide evidence of financial responsibility to the administrator, as described.

The bill would extend immunity from liability as described, to the Pacific Merchant Shipping Association, and its members, upon approval by the administrator of its contingency plan.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8670.32 is added to the
2 Government Code, to read:

3 8670.32. (a) The following definitions govern the
4 construction of this section:

5 (1) “Nontank vessel” means a vessel, other than a tank
6 vessel, not designed to carry oil as cargo.

7 (2) “Reasonable worst case spill” means a spill of the
8 total volume of the largest fuel tank on the nontank
9 vessel.

10 (3) “Qualified individual” means a shore-based
11 representative of a covered nontank vessel owner or
12 operator that, at a minimum, shall be fluent in English,
13 located in the continental United States, be available on
14 a 24-hour basis, and have full written authority to
15 implement the covered nontank vessel’s contingency
16 plan.

17 (b) A nontank vessel of 300 gross registered tons or
18 greater may not operate in the marine waters of the state
19 unless the owner or operator has an oil spill contingency
20 plan prepared, submitted, and approved in accordance
21 with this section.

22 (c) On or before July 1, 1999, each owner or operator
23 of a nontank vessel of 300 gross registered tons or greater
24 shall prepare an oil spill contingency plan for that vessel,
25 and submit the plan to the administrator for review and
26 approval. The plan may be specific to an individual vessel
27 or may be developed using either of the following:

28 (1) A fleet plan submitted by an owner or operator
29 that has a number of vessels that transit the same or
30 substantially the same routes in marine waters of the
31 state. This fleet plan shall contain all prevention and

1 response elements required pursuant to this section. A
2 separate appendix for each vessel shall be included as an
3 attachment to the plan, and shall include both of the
4 following:

5 (A) Specification of the type and total amount of fuel
6 carried.

7 (B) Specification of the capacity of the largest fuel
8 tank.

9 (2) The owner or operator provides evidence of a
10 contract with the Pacific Merchant Shipping Association,
11 a nonprofit corporation, to provide contingency plan
12 coverage on a statewide basis, pursuant to its applicable
13 fee structure.

14 (d) The geographic regions covered by an individual
15 plan shall be defined in regulations adopted by the
16 administrator.

17 (e) In addition to all other contingency plan
18 requirements in this section, the plan shall contain, at a
19 minimum, a procedure for management of the resources
20 to be used in response to an oil spill.

21 (f) The vessel owner or operator shall submit any
22 information, or address any plan element that is required
23 by this section but not addressed by a statewide plan.

24 (g) The administrator shall adopt regulations and
25 guidelines to implement the requirements of this section.
26 The regulations shall ensure that a contingency plan
27 meets all of the following requirements.

28 (1) Be consistent with the protection and response
29 strategies as well as other elements addressed in the
30 appropriate area contingency plan, and is not in conflict
31 with the national contingency plan.

32 (2) Be a written document, reviewed for feasibility
33 and approved by the owner or operator, or a person
34 designated by the owner or operator.

35 (3) Establish a specific chain of command and specify
36 the overall responsibilities of crew, supervisorial,
37 contract, and volunteer personnel.

38 (4) Detail procedures for reporting oil spills to local,
39 state, and federal agencies.

(5) Specify lines of communication between the vessel and the on-scene commanders, response teams, and local, state, and federal response organizations.

(6) Provide for response planning, including coordination with employees, outside contractors, volunteers, and local, state, and federal agencies.

(7) Identify a qualified individual.

(8) Provide the name, address, telephone number, and facsimile number of an agent for service of process, located in the state and designated to receive legal documents on behalf of the plan holder.

(9) Demonstrate that shipboard personnel have knowledge of the notification requirements and other provisions of the contingency plan.

(10) Provide for timely and effective oil spill response. This may be provided directly or through membership in, or contract with, a private or public cooperative or other organization and shall be consistent with both the state contingency plan and the area contingency plan, and not in conflict with the national contingency plan.

(11) Provide evidence that the vessel is in compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(h) Each contingency plan shall be submitted to the administrator for review and approval as specified in Section 8670.31.

(i) A nontank vessel, required to have a contingency plan pursuant to this section, shall not enter marine waters of the state unless the vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator's satisfaction, the ability to pay at least three hundred million dollars (\$300,000,000) to cover damages caused by a spill. Evidence of insurance coverage that includes pollution liability shall satisfy this requirement.

(j) Notwithstanding any other provision of law, the Pacific Merchant Shipping Association, upon approval by the administrator of its contingency plan, shall be provided immunity as follows:

1 (1) Neither the association, its members, directors,
2 officers, employees, incident commanders, agents, or
3 business entities by whom they are regularly employed
4 may be held individually responsible for discretionary
5 decisions, errors in judgment, mistakes, or other acts,
6 either of commission or omission, that are made in good
7 faith and related to the implementation of a contingency
8 plan, other than for acts of gross negligence or willful or
9 wanton misconduct. The association may insure, defend,
10 and indemnify its directors, officers, members,
11 employees, incident commanders, and agents to the
12 fullest extent permitted by the law, and may require as a
13 condition to providing contingency plan services an
14 indemnity agreement and evidence of financial
15 responsibility sufficient to cover that indemnity from
16 those who contract for this services.

17 (2) The association, its officers, directors, members,
18 employees, incident commanders, agents, or
19 representatives shall, in addition, have immunity
20 provided under Section 8670.56.6.

21 (3) Nothing in this section shall be deemed to limit the
22 liability of any responsible party, as defined in subdivision
23 (q) of Section 8670.3.

